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09/140,850	08/27/98	BYERS	M 97-0865

EXAMINER
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QM51/0414

PHILLIPS, C.	
ART UNIT	PAPER NUMBER

3751

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DATE MAILED: 04/14/99

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

## OFFICE ACTION SUMMARY

Responsive to communication(s) filed on \_\_\_\_\_

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

Claim(s) 1-10 is/are pending in the application.  
Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) 1 is/are allowed.

Claim(s) 2-7+9 is/are rejected.

Claim(s) 8+10 is/are objected to.

Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

Notice of Reference Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

-SEE OFFICE ACTION ON THE FOLLOWING PAGES-

Art Unit: 3751

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

2. (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 2-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Hickman. The curved main portion is at 23 and extends to sides 12 in a "straddling" mode with respect to the bowl 10. The foot rests are seen at 22 may be provided on the side as set forth in column 2, lines 44-46. The urine guard is seen at 15. Claim 3 is met by the height as best seen of wall 12. The claim 4 "curved outer wall" is seen at 17 of Figure 2. Re: claim 5, see lines 35 of column 2.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hickman in view of Laurens. Hickman is applied as in paragraph 3 supra. Lauren shows a similar commode device employing a conventional toilet seat 2. The use of such a well known expedient would have been obvious for use in the Hickman environment.

6. Claim 1 is allowed.

Art Unit: 3751

7. Claims 8 and 10 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Evans and Hodroski show toilet bowl user supports.

C. PHILLIPS:th  
April 13, 1999  
703-308-1515



Charles E. Phillips  
Primary Examiner